

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

- - - - -X	
UNITED STATES OF AMERICA,	: 12-CR-0068(KAM)
	: .
-against-	: United States Courthouse
	: Brooklyn, New York
	: .
ZIMING SHEN,	: Friday, September 7, 2012
	: 9:30 a.m.
Defendant.	: .
- - - - -X	

TRANSCRIPT OF CRIMINAL CAUSE FOR BOND REVOCATION HEARING  
BEFORE THE HONORABLE DORA L. IRIZARRY  
UNITED STATES DISTRICT JUDGE

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## A L S O   P R E S E N T :

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BY: ANDREW PROZELLER  
DESIREE MELENDEZ

S.A. Lisa Burretti,  
Department of Agriculture

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1 (In open court.)

2 (Defendants present in open court.)

3 COURTROOM DEPUTY: All rise. The United States  
4 District Court for the Eastern District of New York is now  
5 in session. The Honorable Dora L. Irizarry is now  
6 presiding.

7 (Honorable Dora L. Irizarry takes the bench.)

8 COURTROOM DEPUTY: Calling criminal cause for bond  
9 revocation hearing in Docket No. 12-CR-0068, *United States*  
10 *of America against Ziming Shen*.

11 Counsel, please note your appearances for the  
12 record.

13 MR. SPECTOR: For the United States of America,  
14 Assistant United States Attorney Daniel Spector.

15 Good morning, your Honor.

16 MR. RADICK: Robert M. Radick for Ziming Shen.

17 Good morning, your Honor.

18 MR. STANKIEWICZ: David Stankiewicz for Joanna  
19 Fan.

20 Good morning, your Honor.

21 THE COURT: You can call the case.

22 COURTROOM DEPUTY: Criminal cause for bond  
23 revocation hearing. Docket No. 12-CR-68.

24 MR. SPECTOR: Daniel Spector for the Government.

25 Also seated with me at counsel table is Lisa Burretti, a

1 Special Agent with the Department of Agriculture, Office of  
2 the Inspector General.

3 THE COURT: I'm sorry, can I have the name of the  
4 special agent's name.

5 THE WITNESS: Lisa Burretti. B-u-r-r-e-t-t-i.

6 THE COURT: And we have a representative from  
7 Pretrial Services as well.

8 MS. MELENDEZ: Desiree Melendez.

9 THE COURT: Mr. Prozeller, do you want to come up.

10 MR. PROZELLER: Andrew Prozeller, Pretrial  
11 Services.

12 THE COURT: For the defendant.

13 MR. RADICK: Good morning, your Honor, Robert  
14 Radick of Morvillo Abramowitz. And with me is my associate  
15 David Stankiewicz.

16 THE COURT: Good morning. And good morning to  
17 Ms. Fan and to Mr. Shen.

18 DEFENDANT SHEN: Good morning.

19 THE COURT: I appreciate the parties coming here,  
20 all parties coming here on such short notice.

21 The Court was advised just yesterday by  
22 Pretrial Services that Pretrial Services had been contacted  
23 on September 6th by the United States Department of State to  
24 advise them that defendant Shen had made an application for  
25 a United States passport.

1           The Department of State representative  
2       advised Pretrial that Mr. Shen had submitted a paper  
3       application on August 28th of 2012 at the Red Hook post  
4       office in Brooklyn, and as part of his application the  
5       defendant had indicated that the reason for his passport  
6       application was to replace a lost passport and to use the  
7       document for a planned seven-day trip to China on  
8       September 10th of 2012.

9           In addition, during a home contact visit that  
10      was conducted on August 23rd by Pretrial Services, the  
11      defendant was questioned about the whereabouts of his two  
12      youngest children and he responded that he had sent them on  
13      a trip to China with their nanny. And he indicated that he  
14      could not take them to China himself because the Government  
15      won't allow him to travel to China. The report was docketed  
16      as Docket Entry No. 3.

17           This is obviously a very serious allegation.  
18      It does show an intent to flee the jurisdiction of the  
19      Court. The defendant has already pled guilty in this case  
20      and is awaiting sentencing. We were here just this week on  
21      this case, and I would like to hear from the parties. I  
22      don't know if the Government has any additional information  
23      besides what Pretrial Services provided by way of the  
24      memorandum.

25           MR. SPECTOR: We do not, your Honor.

1           THE COURT: I should add that Pretrial Services  
2 did indicate that it was able to confirm that Ms. Fan had  
3 not made an application for a passport as of yesterday  
4 morning.

5                     Mr. Radick, do you wish to be heard?

6           MR. RADICK: I do, your Honor.

7                     There is some additional information that I  
8 think is important to understand into context, and I've  
9 shared with Mr. Spector, and that Pretrial Services has also  
10 obtained. Let me just start by saying that as a factual  
11 matter, I had extensive conversations since receiving a copy  
12 of this memorandum yesterday with Mr. Shen and he does not  
13 deny that he, in fact, applied for that passport.

14                    He regrets what he did. He knows that what  
15 he did was foolish, stupid. He realizes the situation that  
16 it puts him in, that it could result in the loss of his  
17 liberty right here and right now and we've had that  
18 extensive conversation.

19                    I think the fact that he is here today  
20 knowing what he understands from our conversations does say  
21 a lot about his intention to see this case through. He also  
22 met, at the direction of Pretrial, with Pretrial last night  
23 or late yesterday afternoon at some point in the evening.  
24 He and Ms. Fan met with Pretrial Services. They brought  
25 their two sons with them, their two younger sons,

1 14-year-old twins, in order to demonstrate at the request, I  
2 believe, of Pretrial that they were still in the country.  
3 They are here in the country. The memorandum indicates this  
4 they went to China on a trip. That is, in fact, the case  
5 but they're back. They were not, to the extent the memo  
6 suggests, or time it was written may have been based on the  
7 understanding that the children were in China and he may  
8 have been joining them there. That was not the case, they  
9 were there for a short trip, and they are back and Pretrial  
10 has their passports now. And I understand that Pretrial is  
11 satisfied that the children are here and at least that  
12 aspect sheds a little more light on the memo.

13 Now, there is a context to this that I think  
14 it's important for me to provide. None of this is intended  
15 as an excuse for the conduct. It is intended to explain the  
16 context and give the Court some background and address the  
17 issue as to whether Mr. Shen really sought to flee the  
18 jurisdiction which I think from my understanding, and my  
19 extensive discussions with him and based on some documents  
20 that he's provided to me is not the case.

21 Mr. Shen was extremely concerned about one of  
22 the businesses that he has, or a business that he has in  
23 China which is A-Plus Child Supply which is one the  
24 Government has mentioned throughout the case. There are  
25 several properties, two warehouses and a factory in China

1 that are in various -- as to two of those properties, there  
2 is a court proceeding in China in which there is an eviction  
3 proceeding and I have what Mr. Shen has provided me as --  
4 and it's in Chinese and he provided me with a translation  
5 late last night. So I don't speak Chinese and I can't say  
6 anything other than this appears to be, from his  
7 translation, a summons that he appear in China in court on  
8 September 10th.

9 THE COURT: I don't know, I don't read Chinese.

10 MR. RADICK: Nor do I.

11 THE COURT: And until there is an official  
12 translation by a certified interpreter, I assume if it's an  
13 official document it's in Mandarin.

14 MR. RADICK: I don't speak Chinese either.

15 THE COURT: And I don't know. And I would assume  
16 that any such document would have some bearing of official  
17 stamps on something of some sort.

18 MR. RADICK: There does appear to be some sort of  
19 a seal on this copy of the document. I don't know if the  
20 original raised seal -- I don't have it. This is what I've  
21 been able to get since yesterday.

22 But as a more general point, there are  
23 eviction proceedings as to one of his warehouse locations in  
24 Shanghai. There are also -- there's a mortgage payment that  
25 is overdue as to another location in Shanghai for A-Plus



1 Child Supply. And so, what Mr. Shen was faced with, and he  
2 made the very wrong decision, but what I just want to make  
3 sure we provide the context here, what he was faced with was  
4 a situation in which he believed that he was going to lose  
5 this business that he had established many years ago and  
6 that employs, my understanding, is over a hundred people in  
7 China and he did not feel that he would be able to address  
8 this situation from the United States. He'd be been order  
9 today appear in court in China. He was told he needed be  
10 present in person to address the loss of his locations in  
11 China. And so, in panic, and sort of as his world continues  
12 to collapse around him from this case and the impact it has  
13 had, and the loss of his business, he made a mistake, the  
14 wrong decision to try to address this himself, to try to go  
15 to China and take care of this and he had a roundtrip  
16 airline ticket which I've also shown to the Government and I  
17 can provide to the Court if it would like to see.

18 THE COURT: I would like to see all the documents  
19 that you've referenced if you would, please.

20 MR. RADICK: May I.

21 THE COURT: Yes, please.

22 MR. RADICK: Would your Honor like me to wait  
23 until you review them?

24 THE COURT: Yes, please.

25 (A brief pause in the proceedings was held.)

1 THE COURT: Mr. Radick, you can continue.

2 MR. RADICK: Your Honor, I think it's obvious, it  
3 doesn't need to be said that Mr. Shen should have proceeded  
4 by contacting me asking me to seek permission for him to  
5 travel to China and seeing if we could have it happen in  
6 that manner. That would obviously have been the proper way  
7 to go about it.

8 Unfortunately, given the stress, the  
9 distress, the concern, I think that Mr. Shen panicked and  
10 made this very unfortunate and very misguided decision that  
11 he made to attempt to address the situation himself to get a  
12 passport and to travel. But it take care of these business  
13 issues and then return, not to flee, not to leave his wife,  
14 not to leave his children, not to leave Preschools of  
15 America or Red Apple Schools behind. Not to leave the  
16 properties and homes that he has in the United States in the  
17 New York area where he's lived for many years. Not to give  
18 up his citizenship and not to make himself a fugitive but,  
19 in fact, to try to deal with these business issues and come  
20 back.

21 As I said, I'm not try to excuse what  
22 happened I just want to explain and I don't believe from  
23 what I understand that this was actually an attempt to evade  
24 the jurisdiction or to avoid his ultimate sentencing in this  
25 case. I think that the circumstances are those in which he

1 was just trying to deal with this business problem in a very  
2 misguided way.

3 He's here in court again this morning knowing  
4 that he may be remanded. I think that reflects positively  
5 on the situation. He did everything he could last night on  
6 very short notice to meet with Pretrial to bring his two  
7 sons, to bring his wife, to try to satisfy them that the  
8 children were, in fact, in the United States.

9 And given what I believe is his lack of an  
10 intention to flee, I'm just asking that the Court not remand  
11 Mr. Shen. I instead would propose that he be placed on some  
12 form after curfew at home with an ankle bracelet so that  
13 Pretrial Services can monitor his whereabouts and that I  
14 think that in light of the lack of an intent to flee would  
15 be sufficient to ensure his appearance at all future court  
16 proceedings, he's always come to his court proceedings.

17 Again, he didn't intend to avoid prosecution.  
18 Section 3148 does talk about remanding for a violation of a  
19 release conditions only if there are no conditions or  
20 combination of conditions that will assure the person will  
21 not flee. I think the bracelet and some form of home  
22 confinement, a significant tightening of conditions on  
23 Mr. Shen, will ensure that he continues to come to court as  
24 he's always has. The impact of incarceration for him at  
25 this point would be significant. He has two, 14-year-old

1 sons who are at a very delicate stage in their lives. The  
2 situation is very upsetting for them.

3 THE COURT: Well, at some point he may be facing  
4 jail anyway.

5 MR. RADICK: I understand that. I understand  
6 that. He may be and I'm saying that there are nonetheless  
7 reasons why I think it would be important for him not to be  
8 remanded right now including that we have extensive work to  
9 do in connection with the sentencing. If he's at the MDC or  
10 the MCC that becomes much more difficult. He is important  
11 to the operation of the Red Apple Schools and the Preschools  
12 of America schools. He oversees the maintaining of the  
13 facilities and ensuring that they're safe and that  
14 everything is working in proper order. That's a significant  
15 role that he plays.

16 THE COURT: Well, given that he may have wind up  
17 incarcerated in this case anyway, it seems to me that he  
18 needs to start making some plans to have other people take  
19 care of this if the enterprise is to continue as a viable  
20 concern at all.

21 MR. RADICK: That is something that we've talked  
22 about and as we --

23 THE COURT: And I don't know if that -- I haven't  
24 seen a presentence report yet. But I don't know if either  
25 he or Ms. Fan will ever be able to run such a -- to be

1 licensed, number one, for such a program in the future or be  
2 allowed to continue to run such a program in the future. I  
3 don't know that that's necessary appropriate.

4 MR. RADICK: My understanding --

5 THE COURT: That's like after the wolf has raided  
6 the chicken coop. You don't put the wolf back in the  
7 chicken coop.

8 MR. RADICK: Well, actually, your Honor, not to  
9 get off topic but the Preschools of America, I'm sorry, Red  
10 Apple Schools are still actually allowed to participate in  
11 the CACFP program, they still receive government funds. I  
12 think a determination, apparently, determination was made  
13 that they should receive government funds. I don't know the  
14 details of that but they still participating in the CACFP.  
15 And despite the convictions, the licenses have not been hold  
16 or withdrawn even though my understanding is that the  
17 licensing authorities are aware of the conviction.

18 So I understand that issue. There is no  
19 indication so far --

20 THE COURT: That may be subject to whatever  
21 conditions I may impose at the time of sentence and  
22 restrictions I may impose at the time of sentence. So I  
23 don't think that I'm necessarily bound by some decision by  
24 some bureaucrat in a licensing office.

25 MR. RADICK: Understood, your Honor.

1           THE COURT: I'm disturbed by the fact that he  
2 outright lied to -- with respect to the passport application  
3 and said that he lost his passport. I assume that his  
4 passport had been turned in to Pretrial Services along with  
5 that of Ms. Fan; is that correct?

6           MS. MELENDEZ: Yes, it was actually seized at the  
7 time of his arrest and turned over by the agents.

8           THE COURT: Okay.

9           So, that's disturbing to me regardless of  
10 what his reason may be. And right now we only have his word  
11 as to some business enterprise in China, and certainly, he  
12 had to have known before the summons was issued in August,  
13 assuming that the document that he claims is a summons is  
14 indeed that, and I don't know because I don't read Mandarin  
15 and I don't know that it's an authentic document. And just  
16 like documents can be created in English by computers, I'm  
17 sure that they can be created in any language.

18           I don't think that this is the kind of  
19 situation that comes as a surprise. There has to be some  
20 development going forward, some knowledge on his part, that  
21 he hasn't been able to make mortgage payments. Some  
22 knowledge on his part that things were going wrong in the  
23 business enterprises in China. So this doesn't happen just  
24 all of a sudden.

25           MR. RADICK: As I said, your Honor, I don't want

1 to and I do not, and Mr. Shen does not want me to try to  
2 make any excuses or to try to rationalize the conduct. It  
3 was entirely the wrong thing to do. He recognizes that  
4 fact, he regrets it, he apologizes he knows it was the wrong  
5 thing to do.

6 I think he was in great panic and distress  
7 about the future of this business. I think that's the  
8 explanation and my understanding is that that is what this  
9 trip and this passport application are about, not about an  
10 intent to flee.

11 And so, under those circumstances, my request  
12 is that he not be remanded but measures short of that be  
13 taken to ensure that he complies with the conditions of his  
14 release including an ankle bracelet and some form of house  
15 arrest or some form of home detention that will alert  
16 Pretrial Services if he is not in his home when he should  
17 be. And I think that would be an appropriate measure under  
18 these circumstances and would be the least restrictive  
19 conditions necessary to ensure his continued appearance.

20 THE COURT: Mr. Spector.

21 MR. SPECTOR: Yes, your Honor.

22 First of all, from our perspective, the story  
23 provided by Mr. Shen just seems extremely dubious. He's  
24 retained a law firm that has wide expertise in a variety of  
25 legal matters and if, in fact, this was happening in China

1 he could have, in the first instance, gone to his attorneys  
2 here and tried to seek legal representation in China. There  
3 were all sorts of legitimate options open to him.

4 As the Court points out, this could not have  
5 come as a surprise. This is a business, apparently, he's  
6 been involved with for years. He must have known that these  
7 problems were out there and were looming. At the end of the  
8 day, as the Court has noted, there are serious  
9 authentication concerns with the documents he's provided.  
10 And, really, we just have his word for the proposition that  
11 he was only going to China for a short period of time and  
12 going to return.

13 And, frankly, he's just not a reliable source  
14 of information. He's lied on the passport. He's pled  
15 guilty to being involved in a massive embezzlement scheme.  
16 So I just don't think that the Court should really give much  
17 credence to his explanation. And, at the end of the day, I  
18 don't think it's even really necessary to make a  
19 determination about whether or not the story is true because  
20 even if we accept his story there's still the problem of  
21 this being a very serious violation.

22 It's actually not just one violation, it's  
23 two. Not only did he defy the condition to not apply for a  
24 passport, but in lying on the passport application, he  
25 committed a new crime which is making a false statement on a



1 passport application in violation of 18 U.S. Code 1542.

2 This is, I think, categorically different  
3 from minor bail violations we sometimes see where there is  
4 an isolated positive drug test or someone goes to a birthday  
5 party in a state they're not supposed to go to. In those  
6 circumstances, sometimes the Court has been lenient and  
7 willing do give the defendant another chance. Here, this is  
8 really the most serious violation imaginable in terms of  
9 risk of flight. He sought a new passport, he lied to the  
10 authorities to try to get the new passport to travel to  
11 China, a place where it would have been virtually impossible  
12 for us to extradite him back.

13 In terms of the arguments about the effects  
14 on his family and business if he is remanded.

15 First of all, obviously, he should have taken  
16 that into account before committing the bail violation. But  
17 he also has his wife who, presumably, at least at this  
18 point, is going to remain at liberty who can care for both  
19 the business and the family. And as the Court notes he's  
20 facing significant jail time regardless because of this  
21 case.

22 Just a word on the CACFP funding. My  
23 understanding of the reasons why that hasn't been  
24 discontinued is that the agency has to wait until there's a  
25 judgment entered in this case for them to consider the

1 conviction here final and then to take appropriate action.  
2 So I don't think it's really appropriate other than to read  
3 anything to other than that's simply the agency's  
4 regulations.

5 Finally, just when you examine the issue  
6 before the Court, it's important to note that the  
7 circumstances have changed significantly from the time when  
8 the defendant was released on bail.

9 First of all, he's now pled guilty and so,  
10 under the Bail Reform Act, the burden shifts to the  
11 defendant, and the defendant now must show by clear and  
12 convincing evidence, that he is not a risk of flight. And  
13 based on what's before the Court, I just don't see how he  
14 can meet that burden, particularly, where not only has he  
15 engaged in this conduct, he's facing significant jail time  
16 in this case but also he faces enhanced sentencing  
17 penalties.

18 THE COURT: What's the maximum sentence on this  
19 case? Is it a 10- or a 20-year term.

20 MR. SPECTOR: It's ten years under the statute,  
21 and the guidelines range estimated by the Government is 37  
22 to 46 months. But, in addition to those penalties, he faces  
23 enhanced sentencing penalties under 18 United States Code  
24 Section 3147 for having committed an offense while on  
25 release, and the statute provides that the penalties under

1 §3147 are to run consecutive to the underlying offense.

2 So when you look at everything that's before  
3 the Court from the Government's perspective, we think the  
4 only appropriate disposition here is that the defendant be  
5 remanded.

6 (A brief pause in the proceedings was held.)

7 THE COURT: I am not convinced after hearing from  
8 all of the parties that Mr. Shen is not a risk of flight. I  
9 am not convinced that all of these things just suddenly came  
10 to a head and he had to act now.

11 Mr. Shen and Ms. Fan have together run  
12 businesses for some period of time. They have postgraduate  
13 degrees if I recall correctly from the plea allocution.  
14 They are intelligent, savvy people which is in part  
15 demonstrated by the fraud that was committed here; that they  
16 have both admitted to having committed.

17 As the Government accurately states, and this  
18 is what's disturbing to the Court, is that the defendant  
19 has, while on bond, committed a new crime. Lying on a  
20 passport is a crime particularly in this post-Protect Act  
21 period. I have no doubt that what the Government represents  
22 with respect to extradition from China is likely true --  
23 that it would be difficult.

24 The defendant had other alternatives to  
25 addressing the problem. Particularly having retained a firm

1 such as Morvillo Abramowitz, which is a stellar firm with  
2 national and international experience and contacts. It's a  
3 very respected firm both nationally and internationally,  
4 surely they could have made some suggestions as to what  
5 Mr. Shen could do to resolve any issues that might have  
6 existed in or might exist in China if, indeed, it is true.

7 But that situation with respect to the  
8 businesses is again not something that just develops  
9 overnight, and the defendant -- the timeline is sort of  
10 interesting, too, because he applied for the passport in  
11 short order. He already had the ticket to leave for China,  
12 and although it seems to indicate that it is a roundtrip  
13 ticket and perhaps that was just done to avert any suspicion  
14 that a one-way ticket might have created.

15 So the defendant is remanded, Mr. Shen is  
16 remanded. I'm not going to remand Ms. Fen does not appear  
17 to have, by what I see, have been involved in any of this.  
18 In any event, she did not apply for a new passport and we  
19 have already set a schedule for this case which remains in  
20 place.

21 And the marshals are here. The marshals may  
22 take charge of Mr. Ziming Shen.

23 MR. RADICK: Your Honor, if I may just briefly for  
24 one very brief moment?

25 THE COURT: Yes.

1 MR. RADICK: Two things.

2 One is Mr. Shen has some medications. He's  
3 diabetic, he uses insulin injections. I don't know if there  
4 are other medications as well. I believe he has those with  
5 him.

6 THE COURT: He's not going to be able -- my  
7 understanding with the Marshals Service is that they are  
8 not, particularly, anything involving needles. They are not  
9 going to be able to take any medication, however, I am going  
10 to ask the marshals to make sure that they make a notation  
11 on his paperwork with MDC that he is insulin dependent.  
12 Thankfully, one of the things that the MDC does apparently  
13 attend to quite well is diabetes. Just from experience I've  
14 had with other defendants.

15 MR. RADICK: I'm going to -- I don't know whether  
16 they can take this with them. I do have his lab reports  
17 that reflect his diabetes so that they can confirm it.

18 THE COURT: I think that they can take and, in  
19 fact, that might be very helpful.

20 MR. RADICK: The second issue is Mr. Shen has  
21 asked to speak to address the Court. I understand the Court  
22 has already issued its decision. I've advised Mr. Shen that  
23 I don't believe he should say anything further at this  
24 point; that the Court's decision has been made but he does  
25 wish to make a statement.

1           THE COURT: I think it's advisable that you follow  
2 your attorney's advice in this case, in this particular  
3 situation. As you have heard, the circumstances are such  
4 that there is probable cause to believe that you have  
5 engaged in additional criminal conduct. Anything that you  
6 say here today or that you have said could be used against  
7 you in connection with that new charge if the Government  
8 seeks to bring formal charges against you in connection with  
9 passport fraud.

10                   And so, while I understand your desire to  
11 speak, I think it might be advisable that you adhere to your  
12 counsel's advice.

13           MR. RADICK: He still would like -- your Honor, it  
14 doesn't relate to that issue.

15           THE COURT: I will hear him. Yes, sir.

16           THE DEFENDANT: Your Honor, I'm sorry, you know,  
17 for what I did and I just lost my mind. It's a stupid thing  
18 to do. But the thing is I love this country more than  
19 anything else. I want to stand trial. I actually have two  
20 trials facing me, one for the state trial regarding the some  
21 kind of paparazzi fighting. Actually, I have three  
22 witnesses -- they are.

23           MR. RADICK: I'm sorry. Can I have a moment, your  
24 Honor.

25           THE COURT: Yes.

1 (A brief pause in the proceedings was held.)

2 MR. RADICK: I'm sorry, your Honor.

3 THE DEFENDANT: I'm sorry, your Honor. I have two  
4 trials I want to face and I want to show the Court and  
5 everyone I'm a good citizen of the United States. Even  
6 though I was not born here, I'm an immigrant from China, but  
7 my heart in past 25 years, my heart is attached to this  
8 country. No matter what sentence will be I will facing it  
9 because I love this country I want to be buried in this  
10 country.

11 THE COURT: You know what I think it's good that  
12 you stop here right now, okay, you've pled guilty to  
13 defrauding the federal government of funds that are supposed  
14 to go to food for young children, and a good citizen doesn't  
15 engage in that kind of conduct. So I suggest you leave with  
16 the marshals now.

17 THE DEFENDANT: Okay your Honor.

18 THE MARSHAL: Let's go.

19 THE COURT: You may take charge.

20 (Defendant exits from courtroom at 10:17 a.m.)

21 THE COURT: Just one quick thing. I don't know if  
22 Mr. Stankiewicz, just a formality, I don't know whether  
23 Mr. Stankiewicz is going to be working with you consistently  
24 on this case did he file may Notice of Appeal.

25 MR. STANKIEWICZ: Yes.

1           THE COURT: I just want to make sure so this way  
2 you're not dependent on Mr. Radick's e-mail notifications.

3           MR. RADICK: He does receive them as well.

4           THE COURT: Okay. Perfect.

5           MR. STANKIEWICZ: Thank you.

6           THE COURT: I just wanted to make sure.

7           MS. MELENDEZ: Your Honor, Pretrial Services  
8 secured the children's passports in relation to this bond  
9 which is now no longer in effect. Would your Honor wish to  
10 add to as Joanna Fen's special condition that the children's  
11 passport remain in the custody of Pretrial Services.

12          THE COURT: What's your position on that? The  
13 children are not --

14          MR. RADICK: There's no.

15          THE COURT: -- part of the indictment.

16          MR. RADICK: No.

17                 And there's no reason and there's no  
18 indication that Ms. Fan had anything role in this or that  
19 she's a risk of flight. I think that it would be  
20 appropriate to return the passports to the children.

21          THE COURT: I mean, if they wanted to send them to  
22 relatives in China that should be an option that's  
23 available.

24          MR. RADICK: Especially in light of the  
25 circumstances.



1 THE COURT: Right, to them. So the children's  
2 passports can be returned to Ms. Fan.

3 MR. RADICK: Thank you.

4 THE COURT: Okay.

5 MS. MELENDEZ: Thank you.

6 THE COURT: If there is no objection by the  
7 Government.

8 MR. SPECTOR: That's fine, Judge.

9 THE COURT: Okay. All right. Thank you.

10 (WHEREUPON, this matter was adjourned.)  
11

12 \* \* \*  
13

14 CERTIFICATE OF REPORTER

15 I certify that the foregoing is a correct transcript of the  
16 record of proceedings in the above-entitled matter.  
17  
18  
19

20 \_\_\_\_\_  
21 Anthony D. Frisolone, FAPR, RDR, CRR, CRI  
22 Official Court Reporter  
23  
24  
25

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